



STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA <u>96/97-1001</u>
)	
Countis Laboratories)	STIPULATION AND ORDER
12295 Charles Drive)	
Grass Valley, CA 95945)	Health and Safety Code
ID No. CAL000027527)	Section 25187
)	
Respondent)	
_____)	

The State Department of Toxic Substances Control
(Department) and Countis Laboratories (Respondent) enter into
this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the Enforcement Order
issued by the Department on January 27, 2000. (Attached as
Exhibit 1.)

2. The parties wish to avoid the expense of further
litigation and to ensure prompt action to achieve the Schedule
for Compliance below.

3. Jurisdiction exists pursuant to Health and Safety
Code (HSC) section 25187.

4. Respondent waives any right to a hearing in this
matter.

5. This Order shall constitute full settlement of
the violations alleged in the Enforcement Order, but does not

limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

6. Respondent shall comply with the following:

6.1. Immediately Respondent shall determine whether wastes generated at his facility are hazardous and manage the waste in accordance with applicable regulations and statutes.

6.2 Within 30 days of the effective date of this Order, Respondent shall submit a tiered permit notification to this Department addressing all tiered permit activity conducted at the site.

6.3 Within 15 days of the effective date of this Order, Respondent shall comply with the accumulation time marking and labeling requirements for tanks and containers of hazardous waste.

6.4 Immediately Respondent shall manage all hazardous waste in containers which do not leak or transfer such waste into containers in good condition.

6.5 Within 15 days of the effective date of this Order, Respondent shall maintain all containers of hazardous waste securely closed.

6.6 Immediately Respondent shall store all containers of hazardous waste in a manner which prevents the containers from leaking.

6.7 Within 5 working days of achieving compliance with all violations cited in this Order, Respondent shall submit to this Department a signed Certification of Compliance.

6.8 Submittals: All submittals from Respondent pursuant to this Order shall be sent to:

Ms. Charlene Williams, Chief
Northern California Branch
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Bldg. F, Suite 200
Berkeley, CA 94710

and

Mr. Douglas Hohman
Senior Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
10151 Croydon Way, Suite 3
Sacramento, CA 95827-2106

6.9 Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent

shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

6.10 Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified; or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

6.11 Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

6.12 Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any

deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

6.13 Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

16.14 Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including

all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

6.15 Sampling, Data, and Document Availability:

Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

6.16 Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by

Respondent or related parties specified in paragraph 7.16 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

6.17 Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

6.18 Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

6.19 Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

7.0 Respondent shall pay to the Department a total of \$30,000, of which \$5,000 is a penalty and \$25,000 is reimbursement of the Department's costs. Payments shall be made in accordance with paragraphs 7.1 through 7.3 herein.

7.1. If the Respondent attends the first 4 modules of California Compliance School(CCS), the Department will credit the Respondent with the \$5,000 penalty. Respondent must submit a Certificate of Satisfactory Completion issued by the CCS to the Department within 375 days of the effective date of the Order to establish full compliance with the requirements of this section.

7.2 If Respondent fails to attend CCS or receive a Certification of Satisfactory Completion, the Department will require that the Respondent pay the \$5,000 penalty within 30 days after the 375 day period expires.

7.3 Within thirty (30)days after the effective date of this Stipulation and Order, Respondent shall pay to the Department the sum of ten thousand dollars (\$10,000.00). Beginning 180 days after the effective date of this Stipulation and Order, Respondent shall make four semi-annual (i.e. at 180 day intervals) payments to the Department in the amount of three thousand seven hundred fifty dollars (\$3750.00).-Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with a copy of the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of all payments shall be sent to:

Mr. Douglas Hohman
Senior Hazardous Substances Scientist
Statewide Compliance Division
Department of Toxic Substances Control
10151 Croydon Way, Suite 3
Sacramento, CA 95827

If Respondent fails to make payment as provided above,
Respondent

agrees to pay interest at the rate established pursuant to

HSC § 25360.1 and to pay all costs incurred by the Department
in

pursuing collection, including attorney's fees.

OTHER PROVISIONS

8.1 Additional Enforcement Actions: By agreeing to
this Order, the Department does not waive the right to take
further enforcement actions, except to the extent provided in
this Order.

8.2 Penalties for Noncompliance: Failure to comply
with the terms of this Order may subject Respondent to civil
penalties and/or punitive damages for any costs incurred by
the
Department or other government agencies as a result of such
failure, as provided by HSC section 25188 and other applicable
provisions of law.

8.3 Parties Bound: This Order shall apply to and be
binding upon Respondent and its officers, directors, agents,

receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

8.4 Effective Date: The effective date of this Order

is the date it is signed by the Department.

8.5 Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: _____

Mr. Thomas Countis
Chief Executive Officer

March 23, 2001
Dated: _____

Original signed by Charlene Williams

Ms. Charlene Williams, Chief
Northern California Branch
Statewide Compliance Division
Department of Toxic Substances
Control

bcc: Mr. Norman E. Riley, Chief
Statewide Compliance Division
Department of Toxic Substances Control
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

Mr. Tracey Gidell
Supervising Hazardous Materials Specialist
County of Nevada, Hazardous Materials Division
950 Maidu Avenue
P. O. Box 6100
Nevada City, California 95959-0806

Mr. Joseph Smith
Office of Legal Services
Department of Toxic Substances Control
1001 I Street, 23rd Floor
P. O. Box 806
Sacramento, California 95812-0806